the next period of the agreement, which was, presumably, at the commencement of September.

If it is accepted the defendants terminated their contracts with the plaintiff it must follow, I think, that they thereby lost their rights to use those portions of the premises which they had been occupying because it can scarcely be disputed that this was a case where, the occupation was in the words of *Woodfall*, "subservient and necessary to the service", and so conferred no estate upon the defendant (vide *Woodfall's* Law of Landlord and Tenant 24th Edn. p. 12). In such circumstances the defendants' continued occupation must constitute a trespass unless by virtue of being engaged in a trade dispute they possess some statutory right which would alter the position. I shall now examine this point.

The right to picket is contained in section 5 of the Trade Disputes Ordinance, 1941, which reads:—

"It shall not be unlawful for one or more persons acting on his or their own behalf or on behalf of a trade union or of an individual employer or firm in contemplation or furtherance of a trade dispute to attend at or near a house or place where a person resides or works or carries on business or happens to be or the approach to any such house or place (a) merely for the purpose of peacefully obtaining or communicating information; or (b) merely for the purpose of peacefully persuading or inducing any person to work or abstain from working:

Provided that if such person or persons so attends or attend in such numbers or otherwise in such manner as to be calculated (a) to intimidate any person in that house or place, or (b) to obstruct the approach thereto or egress therefrom, or (c) to lead to a breach of the peace; such attending as aforesaid shall be unlawful and shall be deemed to constitute an offence under paragraph (d) of section 4.

The crux of the matter as far as this case is concerned is whether the words "at or near" mean "in" or "upon" If they do it would seem clear the defendants have the right to remain on the premises for the purposes of peaceful picketing. Now our section 5 is similar to section 2 of the United Kingdom Trade Disputes Act, 1906, except for one or two minor differences of wording which do not affect the present matter. It is clear, therefore, our section was taken from the English Act, and I think it is legitimate to assume that when our legislators adopted the English provision in 1941 they were acquainted with the leading case of *Larkin v. Belfast Harbour Commissioners*[2] in which these words "at or near" were the subject of a judicial decision to the effect they did not mean "in", and that consequently our legislators intended to make local rights of picketing the same as were conferred by the 1906 Act as construed in the light of *Larkin's case.*

The reasons for the interpretation which was placed upon the words "at or near" will be found in the judgment of Lord O'Brien L.C.J., but for those to whom a copy of this Irish Report is not readily available the following brief summary of the matter may be of interest. The words "at or near" were originally contained in section 7 of the "Conspiracy, and Protection of Property Act, 1875", which made it an offence, *inter alia,* to watch or beset the house or place where some other person resided or carried on business etc. with a view to compelling such other person to do or to abstain from doing acts contrary to such other person's legal rights, but excepted from the operation of the section "attending at or near the house or place etc..... in order merely to obtain or communicate information". In the course of his judgment Lord O'Brien said:—

"Watching and besetting plainly means an external operation something not within a house or place, but without."

Now the saving clause of section 7 of the 1875 Act I have just mentioned was repealed by section 2 of the Trade Disputes Act 1906 on which, as I have said, section 5 of our Ordinance is based. By reason of this the Irish Court held that section 7 of the Conspiracy and Protection of Property Act was to be read as if section 2 of the Trade Disputes Act had been embodied into it, and that the words of section 2 must in like manner be read in connection with the words "besetting" and "watching", thus indicating what might be lawfully done without, but not within, a house or place.

Accepting then, as I do, that *Larkin v. Belfast Harbour Commissioners*[2] is an authority that to be logical in reaching my decision I must follow, I hold the words "at or near" of our section 5 cannot mean "in", and from this I conclude that the defendant were not entitled to picket in the grounds of the plaintiff's premises, and that in doing so after the termination of their contract they were committing acts of trespass.

For these reasons the plaintiff was entitled in my opinion to the relief he sought, and I gave oral judgment accordingly. It was not suggested the defendants could not legally carry on peaceful picketing on the highway outside the hotel premises.

Order accordingly.

Solicitors for the plaintiff: *Eber & Tan.*

ME PE PEANG v. LOH SEOW

[O. C. J. (Wilson J.) December 2, 1955]

[K. L. — Originating Motion No. 9 of 1955]

Landlord & Tenant — Control of Rent Ordinance, 1948, s. 13(1) — Whether an application can be made to quash the order of a Rent Assessment Board by way of Originating Motion.

This was an application made by way of Originating Motion to quash the order of a Rent Assessment Board.

Held: the proper procedure for quashing an order of the Rent Assessment Board is not by way of an originating motion.

ORIGINATING SUMMONS.

B. C. Guha for the applicant.

K. Chelvanayagam for the respondent.

Wilson J. : — In Sessions Court case No. 507 of 1955, Loh Seow v. Me Pe Peang (f), the learned President ordered *inter alia* that the defendant do quit and deliver up vacant possession of No. 449A, Batu Road, Kuala Lumpur, to the plaintiff on or before the 31st October, 1955. It is only with this part of the order that I am now concerned.

By Application No. 83 of 1953 the plaintiff applied to the Rent Assessment Board for leave to apply to a Court for an order of ejectment but the said application was refused. The plaintiff subsequently made another application to the Board who, by an order dated the 14th April, 1955, gave permission to the plaintiff to apply to a Court for an Order of ejectment. It was argued before the learned President that the order of the 14th April, 1955, was void and of no legal effect. The learned President, however, found that he was bound to give effect to the order of the 14th April which, in his view, was valid and made the order for ejectment.

On the 13th September, 1955, the defendant appealed to the High Court against the order of ejectment. The appeal came on for hearing before the High Court on the 3rd October, 1955, when it was ordered that the appeal be dismissed with costs.

The defendant (now applicant) on the 13th October, 1955, filed an originating motion in the High Court for an order that the order passed by the Rent Board permitting the plaintiff to file a suit to eject the defendant be quashed. It is to be noted that in paragraph 13 of her affidavit on the motion the applicant states as follows :—

"That on the 14th April, 1955, when the order was passed by the Rent Assessment Board I had no right of appeal and I was advised by my Solicitor to have the order of the Rent Assessment Board quashed by way of a writ of certiorari."

In spite of this, the applicant made no attempt to have the order of the Rent Board quashed by writ of certiorari. Instead she allowed the suit to proceed to trial before the Sessions Court and took the case from the Sessions Court to the High Court on appeal. It was only after the appeal had been dismissed that an attempt was made to quash the order of the Rent Assessment Board by way of an originating motion. Whether an application could have been made for a writ of certiorari after the trial of the case in the Sessions Court and the appeal to the High Court were concluded, it is not necessary for me to decide, because whether or not the applicant could have applied for a writ of certiorari in these circumstances I am satisfied that the proper procedure for quashing an order of the Rent Board is not by way of an originating motion.

The originating motion is dismissed with costs.

Motion dismissed.

LUM SEE ON v. CHAN KIT YONG (f)

[A. C. J. (Whyatt C. J.) November 22, 1955]

[Singapore — District Court Appeal No. 11 of 1955]

Landlord & Tenant — Control of Rent Ordinance, 1953 — Whether personal representative who retains possession of premises after death of tenant becomes statutory tenant — Revocation of letters of administration after issue of summons for possession but before trial — What is material date for determining rights of parties.

The plaintiff in this case originally let the premises to a woman named Lee Ah Lien. On September 15, 1953 Lee Ah Lien died without making a will. On October 27, 1953 the plaintiff's solicitors sent a notice to quit expiring on November 30, 1953 to the Registrar of the Supreme Court addressed to the executors or administrators of Lee Ah Lien, the occupiers of the premises and all others whom it may concern. A copy of the notice was served on the occupiers of the premises. In the meantime the defendant, who claimed that the deceased was her adopted grandmother and that she was living with her at the time of her death applied for and obtained on November 28, 1953 letters of administration to the deceased's estate. She did not give up possession on November 30, 1953 as required by the notice to quit and consequently the plaintiff commenced proceedings on January 13, 1954. In her defence filed on April 5, 1954 the defendant admitted the service of the notice to quit but stated that letters of administration had been granted to her before the tenancy expired and claimed the protection of the Control of Rent Ordinance. On April 15, 1954 the date fixed for the hearing of the case, counsel for the plaintiff asked for an adjournment to enable him to challenge the grant of letters of administration to the defendant. The learned District Judge granted an adjournment and on June 12, 1954, the grant to the defendant was revoked. The case was eventually heard by the learned District Judge on December 3, 1954 and he gave judgment for the defendant. The plaintiff appealed.

Held: (1) where the tenant of premises has died intestate, the tenancy can be determined by serving a notice to quit on the occupiers of the premises; (2) where a person who is residing with a tenant at the time of the tenant's death, subsequently obtains letters of administration before the tenancy is determined by notice to quit, the person becomes a statutory tenant and can claim the protection of the Control of Rent Ordinance; (3) the relevant date for determining the rights of the parties is the date of the hearing and as in this case, the defendant had ceased to be the legal personal representative of the deceased when the action was heard, she was not entitled to rely upon the provisions of the Control of Rent Ordinance at that date to defeat the plaintiff's claim for possession at common law.